

JAN 28 1991

By

5 J.R. No. 11

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the commissioner
2 of the General Land Office to issue patents for certain public free
3 school fund land held in good faith under color of title for at
4 least 50 years.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article VII of the Texas Constitution is amended
7 by adding Section 4A to read as follows:

8 Sec. 4A. (a) On application to the School Land Board, a
9 natural person is entitled to receive a patent to land from the
10 commissioner of the General Land Office if:

11 (1) the land is surveyed public free school land,
12 either surveyed or platted according to records of the General Land
13 Office;

14 (2) the land was not patentable under the law in
15 effect immediately before adoption of this section;

16 (3) the person acquired the land without knowledge of
17 the title defect out of the State of Texas or Republic of Texas and
18 held the land under color of title, the chain of which dates from
19 at least as early as January 1, 1941; and

20 (4) the person, in conjunction with his predecessors
21 in interest:

22 (A) has a recorded deed on file in the
23 respective county courthouse and has claimed the land for a
24 continuous period of at least 50 years as of January 1, 1991; and

1 (B) for at least 50 years has paid taxes on the
2 land together with all interest and penalties associated with any
3 period of delinquency of said taxes; provided, however, that in the
4 event that public records concerning the tax payments on the land
5 are unavailable for any period within the past 50 years, the tax
6 assessors-collectors of the taxing jurisdictions in which the land
7 is located shall provide the School Land Board with a sworn
8 certificate stating that, to the best of their knowledge, all taxes
9 have been paid for the past 50 years and there are no outstanding
10 taxes nor interest or penalties currently due against the property.

11 (b) The applicant for the patent must submit to the School
12 Land Board certified copies of his chain of title and a survey of
13 the land for which a patent is sought, if requested to do so by the
14 board. The board shall determine the qualifications of the
15 applicant to receive a patent under this section. Upon a finding
16 by the board that the applicant meets the requirements of
17 Subsection (a) of this section, the commissioner of the General
18 Land Office shall award the applicant a patent. If the applicant
19 is denied a patent, he may file suit against the board in a
20 district court of the county in which the land is situated within
21 60 days from the date of the denial of the patent under this
22 section. The trial shall be de novo and not subject to the
23 Administrative Procedure and Texas Register Act (Article 6252-13a,
24 Vernon's Texas Civil Statutes), and the burden of proof is on the
25 applicant.

26 (c) This section does not apply to beach land, submerged
27 land, or islands, and may not be used by an applicant to resolve a

1 boundary dispute. This section does not apply to land that,
2 previous to the effective date of this section, was found by a
3 court of competent jurisdiction to be state owned or to land on
4 which the state has given a mineral lease that on the effective
5 date of this section was productive.

6 (d) Application for a patent under this section must be
7 filed with the School Land Board before January 1, 1992.

8 (e) This section is self-executing.

9 (f) This section expires on January 1, 1993.

10 SECTION 2. This proposed constitutional amendment shall be
11 submitted to the voters at an election to be held on November 5,
12 1991. The ballot shall be printed to provide for voting for or
13 against the proposition: "The constitutional amendment authorizing
14 the commissioner of the General Land Office to issue patents for
15 certain public free school fund land held in good faith under color
16 of title for at least 50 years."

By: Sims S.J.R. No. 11
(In the Senate - Filed January 28, 1991; January 29, 1991,
read first time and referred to Committee on State Affairs;
March 14, 1991, reported adversely, with favorable Committee
Substitute by the following vote: Yeas 7, Nays 0; March 14, 1991,
sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Glasgow	x			
Henderson				x
Carriker	x			
Dickson				x
Ellis				x
Green	x			
Harris of Dallas				x
Leedom	x			
Lucio				x
Lyon	x			
Moncrief	x			
Rosson	x			
Whitmire				x

COMMITTEE SUBSTITUTE FOR S.J.R. No. 11

By: Moncrief

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the commissioner
of the General Land Office to issue patents for certain public free
school fund land held in good faith under color of title for at
least 50 years.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article VII of the Texas Constitution is amended
by adding Section 4A to read as follows:

Sec. 4A. (a) On application to the School Land Board, a
natural person is entitled to receive a patent to land from the
commissioner of the General Land Office if:

(1) the land is surveyed public free school fund land,
either surveyed or platted according to records of the General Land
Office;

(2) the land was not patentable under the law in
effect immediately before adoption of this section;

(3) the person acquired the land without knowledge of
the title defect out of the State of Texas or Republic of Texas and
held the land under color of title, the chain of which dates from
at least as early as January 1, 1941; and

(4) the person, in conjunction with his predecessors
in interest:

(A) has a recorded deed on file in the
respective county courthouse and has claimed the land for a
continuous period of at least 50 years as of January 1, 1991; and

(B) for at least 50 years has paid taxes on the
land together with all interest and penalties associated with any
period of delinquency of the taxes; provided, however, that in the
event that public records concerning the tax payments on the land
are unavailable for any period within the past 50 years, the tax
assessors-collectors of the taxing jurisdictions in which the land
is located shall provide the School Land Board with a sworn
certificate stating that, to the best of their knowledge, all taxes
have been paid for the past 50 years and there are no outstanding
taxes nor interest or penalties currently due against the property.

(b) The applicant for the patent must submit to the School
Land Board certified copies of his chain of title and a survey of
the land for which a patent is sought, if requested to do so by the
board. The board shall determine the qualifications of the
applicant to receive a patent under this section. On a finding by
the board that the applicant meets the requirements of Subsection
(a) of this section, the commissioner of the General Land Office
shall award the applicant a patent. If the applicant is denied a

1 patent, he may file suit against the board in a district court of
 2 the county in which the land is situated within 60 days from the
 3 date of the denial of the patent under this section. The trial
 4 shall be de novo and not subject to the Administrative Procedure
 5 and Texas Register Act (Article 6252-13a, Vernon's Texas Civil
 6 Statutes), and the burden of proof is on the applicant.

7 (c) This section does not apply to beach land, submerged or
 8 filled land, or islands and may not be used by an applicant to
 9 resolve a boundary dispute. This section does not apply to land
 10 that, pursuant to an action filed previous to the date of an
 11 application for patent thereon, was found by a court of competent
 12 jurisdiction to be state owned or to land on which the state has
 13 given a mineral lease that is in effect on the date of an
 14 application for patent thereon. A patent under this section for
 15 land within five miles of mineral production shall reserve minerals
 16 to the state in the same manner provided by law for reservations of
 17 minerals in sales to good faith claimants of unsurveyed school land
 18 within five miles of production.

19 (d) Application for a patent under this section must be
 20 filed with the School Land Board before January 1, 1993.

21 (e) This section is self-executing.

22 SECTION 2. This proposed constitutional amendment shall be
 23 submitted to the voters at an election to be held on November 5,
 24 1991. The ballot shall be printed to provide for voting for or
 25 against the proposition: "The constitutional amendment authorizing
 26 the commissioner of the General Land Office to issue patents for
 27 certain public free school fund land held in good faith under color
 28 of title for at least 50 years."

29 * * * * *

30 Austin, Texas
 31 March 14, 1991

32 Hon. Bob Bullock
 33 President of the Senate

34 Sir:

35 We, your Committee on State Affairs to which was referred S.J.R.
 36 No. 11, have had the same under consideration, and I am instructed
 37 to report it back to the Senate with the recommendation that it do
 38 not pass, but that the Committee Substitute adopted in lieu thereof
 39 do pass and be printed.

40 Glasgow, Chairman

**FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON**

SB SCR (SJR) SR. HB HCR HJR 11
By Jms (Moncrief) (CSRB)
(Author/Senate Sponsor)
3-13-91
(date of submission to Senate)

Lt. Governor Bob Bullock
President of the Senate

Sir:

We, your Committee on State Affairs, to which was referred the attached measure, have on 3-13-91, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute
☐ do pass as substituted, and be ordered not printed
☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no
A revised fiscal note was requested. ☒ yes ☐ no
An actuarial analysis was requested. ☐ yes ☒ no
Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Glasgow, Chairman	<input checked="" type="checkbox"/>			
Henderson, Vice Chairman			<input checked="" type="checkbox"/>	
Carriker	<input checked="" type="checkbox"/>			
Dickson			<input checked="" type="checkbox"/>	
Ellis			<input checked="" type="checkbox"/>	
Green	<input checked="" type="checkbox"/>			
Harris, O.H.			<input checked="" type="checkbox"/>	
Leedom	<input checked="" type="checkbox"/>			
Lucio			<input checked="" type="checkbox"/>	
Lyon	<input checked="" type="checkbox"/>			
Moncrief	<input checked="" type="checkbox"/>			
Rosson	<input checked="" type="checkbox"/>			
Whitmire			<input checked="" type="checkbox"/>	
TOTAL VOTES	<u>7</u>	<u>0</u>	<u>6</u>	

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken

Leslie MacLean
COMMITTEE CLERK

Bob Glasgow
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Deliver one copy of this form to the Calendar Clerk, Room 218 Capitol
Deliver one copy of this form to the Legislative Reference Library, Room 207B Capitol
Retain one copy of this form for Committee files

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 6, 1991

**TO: Honorable Bob Glasgow, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas**

**IN RE: Senate Joint Resolution No. 11
By: Sims**

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years) this office has determined the following:

The resolution would revise the period in which a certain type of land patent could be applied for. Article VII, Section 4A of the Texas Constitution would authorize a person to apply for a patent to land on which the applicant can show an unbroken chain of title for at least 50 years. The period in which to file an application for such a patent expired on November 3, 1986.

This amendment would allow a person who has a deed on file and has claimed the land and paid all taxes for a continuous period of 50 years to receive a patent from the state granting clear ownership of the property.

No significant fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution is \$60,000.

**Source: General Land Office
LBB Staff: JO, JWH, DF, KNW, CKM**

By, Sims

S.J.R. No. 11

Substitute the following for S.J.R. No. 11: ~~_____~~

By: *Moncrief*

~~C.S.S.J.R. No. 11~~

~~SENATE~~

~~A~~ JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the commissioner
2 of the General Land Office to issue patents for certain public free
3 school fund land held in good faith under color of title for at
4 least 50 years.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article VII of the Texas Constitution is amended
7 by adding Section 4A to read as follows:

8 Sec. 4A. (a) On application to the School Land Board, a
9 natural person is entitled to receive a patent to land from the
10 commissioner of the General Land Office if:

11 (1) the land is surveyed public free school fund land,
12 either surveyed or platted according to records of the General Land
13 Office;

14 (2) the land was not patentable under the law in
15 effect immediately before adoption of this section;

16 (3) the person acquired the land without knowledge of
17 the title defect out of the State of Texas or Republic of Texas and
18 held the land under color of title, the chain of which dates from
19 at least as early as January 1, 1941; and

20 (4) the person, in conjunction with his predecessors
21 in interest:

22 (A) has a recorded deed on file in the
23 respective county courthouse and has claimed the land for a
24 continuous period of at least 50 years as of January 1, 1991; and *h*

3-14-91

3-24-91

5-23-91

1 (B) for at least 50 years has paid taxes on the
2 land together with all interest and penalties associated with any
3 period of delinquency of ^{the} said taxes; provided, however, that in the
4 event that public records concerning the tax payments on the land
5 are unavailable for any period within the past 50 years, the tax
6 assessors-collectors of the taxing jurisdictions in which the land
7 is located shall provide the School Land Board with a sworn
8 certificate stating that, to the best of their knowledge, all taxes
9 have been paid for the past 50 years and there are no outstanding
10 taxes nor interest or penalties currently due against the property.

11 (b) The applicant for the patent must submit to the School
12 Land Board certified copies of his chain of title and a survey of
13 the land for which a patent is sought, if requested to do so by the
14 board. The board shall determine the qualifications of the
15 applicant to receive a patent under this section. Upon a finding
16 by the board that the applicant meets the requirements of
17 Subsection (a) of this section, the commissioner of the General
18 Land Office shall award the applicant a patent. If the applicant
19 is denied a patent, he may file suit against the board in a
20 district court of the county in which the land is situated within
21 60 days from the date of the denial of the patent under this
22 section. The trial shall be de novo and not subject to the
23 Administrative Procedure and Texas Register Act (Article 6252-13a,
24 Vernon's Texas Civil Statutes), and the burden of proof is on the
25 applicant.

26 (c) This section does not apply to beach land, submerged or ^h/_n
27 filled land, or islands^h and may not be used by an applicant to

1 resolve a boundary dispute. This section does not apply to land
2 that, pursuant to an action filed previous to the date of an
3 application for patent thereon, was found by a court of competent
4 jurisdiction to be state owned or to land on which the state has
5 given a mineral lease that is in effect on the date of an
6 application for patent thereon. A patent under this section for
7 land within five miles of mineral production shall reserve minerals
8 to the state in the same manner provided by law for reservations of
9 minerals in sales to good faith claimants of unsurveyed school land
10 within five miles of production.

11 (d) Application for a patent under this section must be
12 filed with the School Land Board before January 1, 1993.

13 (e) This section is self-executing.

14 SECTION 2. This proposed constitutional amendment shall be
15 submitted to the voters at an election to be held on November 5,
16 1991. The ballot shall be printed to provide for voting for or
17 against the proposition: "The constitutional amendment authorizing
18 the commissioner of the General Land Office to issue patents for
19 certain public free school fund land held in good faith under color
20 of title for at least 50 years."

March 21 1991 Engrossed

Daisy Law
Engrossing Clerk

I certify that the attached is a true and correct
copy of SBK. 11, which was
received from the Senate on MAR 25 1991 and
referred to the Committee on Education

Betty M. Mendenhall
Chief Clerk of the House

By: Sims
(Kuempel)

S.J.R. No. 11

SENATE JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the commissioner
2 of the General Land Office to issue patents for certain public free
3 school fund land held in good faith under color of title for at
4 least 50 years.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article VII of the Texas Constitution is amended
7 by adding Section 4A to read as follows:

8 Sec. 4A. (a) On application to the School Land Board, a
9 natural person is entitled to receive a patent to land from the
10 commissioner of the General Land Office if:

11 (1) the land is surveyed public free school fund land,
12 either surveyed or platted according to records of the General Land
13 Office;

14 (2) the land was not patentable under the law in
15 effect immediately before adoption of this section;

16 (3) the person acquired the land without knowledge of
17 the title defect out of the State of Texas or Republic of Texas and
18 held the land under color of title, the chain of which dates from
19 at least as early as January 1, 1941; and

20 (4) the person, in conjunction with his predecessors
21 in interest:

22 (A) has a recorded deed on file in the
23 respective county courthouse and has claimed the land for a
24 continuous period of at least 50 years as of January 1, 1991; and

1 (B) for at least 50 years has paid taxes on the
2 land together with all interest and penalties associated with any
3 period of delinquency of the taxes; provided, however, that in the
4 event that public records concerning the tax payments on the land
5 are unavailable for any period within the past 50 years, the tax
6 assessors-collectors of the taxing jurisdictions in which the land
7 is located shall provide the School Land Board with a sworn
8 certificate stating that, to the best of their knowledge, all taxes
9 have been paid for the past 50 years and there are no outstanding
10 taxes nor interest or penalties currently due against the property.

11 (b) The applicant for the patent must submit to the School
12 Land Board certified copies of his chain of title and a survey of
13 the land for which a patent is sought, if requested to do so by the
14 board. The board shall determine the qualifications of the
15 applicant to receive a patent under this section. On a finding by
16 the board that the applicant meets the requirements of Subsection
17 (a) of this section, the commissioner of the General Land Office
18 shall award the applicant a patent. If the applicant is denied a
19 patent, he may file suit against the board in a district court of
20 the county in which the land is situated within 60 days from the
21 date of the denial of the patent under this section. The trial
22 shall be de novo and not subject to the Administrative Procedure
23 and Texas Register Act (Article 6252-13a, Vernon's Texas Civil
24 Statutes), and the burden of proof is on the applicant.

25 (c) This section does not apply to beach land, submerged or

1 filled land, or islands and may not be used by an applicant to
2 resolve a boundary dispute. This section does not apply to land
3 that, pursuant to an action filed previous to the date of an
4 application for patent thereon, was found by a court of competent
5 jurisdiction to be state owned or to land on which the state has
6 given a mineral lease that is in effect on the date of an
7 application for patent thereon. A patent under this section for
8 land within five miles of mineral production shall reserve minerals
9 to the state in the same manner provided by law for reservations of
10 minerals in sales to good faith claimants of unsurveyed school land
11 within five miles of production.

12 (d) Application for a patent under this section must be
13 filed with the School Land Board before January 1, 1993.

14 (e) This section is self-executing.

15 SECTION 2. This proposed constitutional amendment shall be
16 submitted to the voters at an election to be held on November 5,
17 1991. The ballot shall be printed to provide for voting for or
18 against the proposition: "The constitutional amendment authorizing
19 the commissioner of the General Land Office to issue patents for
20 certain public free school fund land held in good faith under color
21 of title for at least 50 years."

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

March 15, 1991

TO: Honorable Bob Glasgow, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

IN RE: Committee Substitute for
Senate Joint Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years) this office has determined the following:

The resolution would revise the period in which a certain type of land patent could be applied for. Article VII, Section 4A of the Texas Constitution would authorize a person to apply for a patent to land on which the applicant can show an unbroken chain of title for at least 50 years. The period in which to file an application for such a patent expired on November 3, 1986.

This amendment would allow a person who has a deed on file and has claimed the land and paid all taxes for a continuous period of 50 years to receive a patent from the state granting clear ownership of the property.

No significant fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution is \$60,000.

Source: General Land Office
LBB Staff: JO, JWH, DF, KNW, PA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

February 6, 1991

TO: Honorable Bob Glasgow, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

IN RE: Senate Joint Resolution No. 11
By: Sims

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years) this office has determined the following:

The resolution would revise the period in which a certain type of land patent could be applied for. Article VII, Section 4A of the Texas Constitution would authorize a person to apply for a patent to land on which the applicant can show an unbroken chain of title for at least 50 years. The period in which to file an application for such a patent expired on November 3, 1986.

This amendment would allow a person who has a deed on file and has claimed the land and paid all taxes for a continuous period of 50 years to receive a patent from the state granting clear ownership of the property.

No significant fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution is \$60,000.

Source: General Land Office
LBB Staff: JO, JWH, DF, KNW, CKM

HOUSE COMMITTEE REPORT

91 MAY 11 AM 2:48
HOUSE OF REPRESENTATIVES

1st Printing

By: Sims
(Kuempel)

S.J.R. No. 11

SENATE JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the commissioner
2 of the General Land Office to issue patents for certain public free
3 school fund land held in good faith under color of title for at
4 least 50 years.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article VII of the Texas Constitution is amended
7 by adding Section 4A to read as follows:

8 Sec. 4A. (a) On application to the School Land Board, a
9 natural person is entitled to receive a patent to land from the
10 commissioner of the General Land Office if:

11 (1) the land is surveyed public free school fund land,
12 either surveyed or platted according to records of the General Land
13 Office;

14 (2) the land was not patentable under the law in
15 effect immediately before adoption of this section;

16 (3) the person acquired the land without knowledge of
17 the title defect out of the State of Texas or Republic of Texas and
18 held the land under color of title, the chain of which dates from
19 at least as early as January 1, 1941; and

20 (4) the person, in conjunction with his predecessors
21 in interest:

22 (A) has a recorded deed on file in the
23 respective county courthouse and has claimed the land for a
24 continuous period of at least 50 years as of January 1, 1991; and

1 (B) for at least 50 years has paid taxes on the
2 land together with all interest and penalties associated with any
3 period of delinquency of the taxes; provided, however, that in the
4 event that public records concerning the tax payments on the land
5 are unavailable for any period within the past 50 years, the tax
6 assessors-collectors of the taxing jurisdictions in which the land
7 is located shall provide the School Land Board with a sworn
8 certificate stating that, to the best of their knowledge, all taxes
9 have been paid for the past 50 years and there are no outstanding
10 taxes nor interest or penalties currently due against the property.

11 (b) The applicant for the patent must submit to the School
12 Land Board certified copies of his chain of title and a survey of
13 the land for which a patent is sought, if requested to do so by the
14 board. The board shall determine the qualifications of the
15 applicant to receive a patent under this section. On a finding by
16 the board that the applicant meets the requirements of Subsection
17 (a) of this section, the commissioner of the General Land Office
18 shall award the applicant a patent. If the applicant is denied a
19 patent, he may file suit against the board in a district court of
20 the county in which the land is situated within 60 days from the
21 date of the denial of the patent under this section. The trial
22 shall be de novo and not subject to the Administrative Procedure
23 and Texas Register Act (Article 6252-13a, Vernon's Texas Civil
24 Statutes), and the burden of proof is on the applicant.

25 (c) This section does not apply to beach land, submerged or

1 filled land, or islands and may not be used by an applicant to
 2 resolve a boundary dispute. This section does not apply to land
 3 that, pursuant to an action filed previous to the date of an
 4 application for patent thereon, was found by a court of competent
 5 jurisdiction to be state owned or to land on which the state has
 6 given a mineral lease that is in effect on the date of an
 7 application for patent thereon. A patent under this section for
 8 land within five miles of mineral production shall reserve minerals
 9 to the state in the same manner provided by law for reservations of
 10 minerals in sales to good faith claimants of unsurveyed school land
 11 within five miles of production.

12 (d) Application for a patent under this section must be
 13 filed with the School Land Board before January 1, 1993.

14 (e) This section is self-executing.

15 SECTION 2. This proposed constitutional amendment shall be
 16 submitted to the voters at an election to be held on November 5,
 17 1991. The ballot shall be printed to provide for voting for or
 18 against the proposition: "The constitutional amendment authorizing
 19 the commissioner of the General Land Office to issue patents for
 20 certain public free school fund land held in good faith under color
 21 of title for at least 50 years."

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

5.9.91
(date)

Sir:

We, your COMMITTEE ON ENVIRONMENTAL AFFAIRS

to whom was referred S.J.R. 11 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

- (☒) do pass, without amendment.
(☐) do pass, with amendment(s).
(☐) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (☐) yes (☒) no An author's fiscal statement was requested. (☐) yes (☒) no

A criminal justice policy impact statement was requested. (☐) yes (☒) no

An equalized educational funding impact statement was requested. (☐) yes (☒) no

An actuarial analysis was requested. (☐) yes (☒) no

A water development policy impact statement was requested. (☐) yes (☒) no

A federal funds impact statement was requested. (☐) yes (☒) no

(☐) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

This measure (☐) proposes new law. (☒) amends existing law.

House Sponsor of Senate Measure KUEMPEL

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
SAUNDERS, CH.	<input checked="" type="checkbox"/>			
OAKLEY, V. CH.	<input checked="" type="checkbox"/>			
ALEXANDER, C.B.O.				<input checked="" type="checkbox"/>
HARRIS				<input checked="" type="checkbox"/>
HIGHTOWER	<input checked="" type="checkbox"/>			
HOLZHEAUSER	<input checked="" type="checkbox"/>			
JACKSON				<input checked="" type="checkbox"/>
KUEMPEL	<input checked="" type="checkbox"/>			
SMITH	<input checked="" type="checkbox"/>			

Total 6 aye
 0 nay
 0 present, not voting
 3 absent

Gib Lewis
CHAIRMAN
Deborah K. McCall
COMMITTEE COORDINATOR

COMMITTEE ON ENVIRONMENTAL AFFAIRS

RESOLUTION ANALYSIS

By: Sims (Kuempel)

S.J.R. 11

BACKGROUND

Senate Bill 1840, enacted by the 71st Legislature, 1989 (Article 54.14a-2, V.T.C.S.), provided for the issuance by the General Land Office of patents to certain state permanent school fund lands to persons who would have met the requirements for obtaining such patents under the now expired provisions of Article VII, Section 4A, Texas Constitution, except that their filing of the documents required under the latter provisions was not timely.

Article 54.14a-2 delegated authority to the General Land Office to select a tract of state-owned land for placement in the permanent school fund in exchange for a tract to be patented out under the provisions of the bill. This authority was found to be unconstitutional by an attorney general opinion (JM-1242), and because the provisions of the bill unconstitutionally delegating such authority are so intermingled with the remaining portions of the bill, they cannot be severed; therefore the entire bill is unconstitutional.

This resolution seeks to remedy the problem addressed in the original bill by amending the constitution to specifically allow the GLO to issue patents to qualified people.

PURPOSE

As proposed, S.J.R. 11 proposes a constitutional amendment to entitle a person, on application to the School Land Board, to receive a patent from the commissioner of the General Land Office for certain public free school fund land held in good faith under color of title for at least 50 years.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article VII, Texas Constitution, by adding Section 4A, as follows:

Sec. 4A. (a) Sets forth conditions under which a person is entitled to receive a patent to land from the commissioner of the General Land Office (GLO), upon application to the School Land Board (board).

(b) Requires the applicant to submit to the board a copy of his title and a survey of the land, if requested to do so by the board. Requires the commissioner of the GLO to award the applicant a patent upon a finding by the board that the applicant meets the requirements of Subsection (a) of this section. Allows an applicant to file suit against the board within 60 days if the applicant is denied a patent. Requires that the trial be de novo and not subject to Article 6252-13a, V.T.C.S.

(c) Provides that this section does not apply to beach land, submerged lands, or islands, and prohibits its use

by an applicant to resolve a boundary dispute. Provides that this section does not apply to land that was found by a court to be state owned or to land on which the state has given a mineral lease that is in effect on the date of an application for patent thereon. Requires the patent for land within five miles of mineral production to reserve minerals in sales to good faith claimants of unsurveyed school land within five miles of production.

(d) Requires an application for a patent under this section to be filed before January 1, 1993.

(e) Provides that this section is self executing.

SECTION 2. Requires the proposed constitutional amendment to be submitted to the voters at an election held on November 5, 1991, and specifies ballot language.

SUMMARY OF COMMITTEE ACTION

S.J.R. 11 was considered in a formal meeting on May 9, 1991. The motion to report the resolution favorably carried by the following vote: Ayes: 6, Nays: 0, PNV: 0, Absent: 3.

ENVAC051091

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

March 15, 1991

TO: Honorable Bob Glasgow, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

IN RE: Committee Substitute for
Senate Joint Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years) this office has determined the following:

The resolution would revise the period in which a certain type of land patent could be applied for. Article VII, Section 4A of the Texas Constitution would authorize a person to apply for a patent to land on which the applicant can show an unbroken chain of title for at least 50 years. The period in which to file an application for such a patent expired on November 3, 1986.

This amendment would allow a person who has a deed on file and has claimed the land and paid all taxes for a continuous period of 50 years to receive a patent from the state granting clear ownership of the property.

No significant fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution is \$60,000.

Source: General Land Office
LBB Staff: JO, JWH, DF, KNW, PA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

February 6, 1991

TO: Honorable Bob Glasgow, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

IN RE: Senate Joint Resolution No. 11
By: Sims

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years) this office has determined the following:

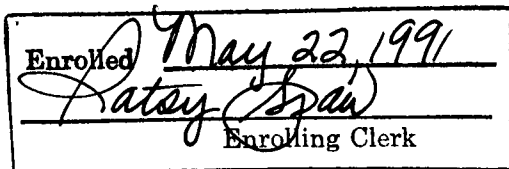
The resolution would revise the period in which a certain type of land patent could be applied for. Article VII, Section 4A of the Texas Constitution would authorize a person to apply for a patent to land on which the applicant can show an unbroken chain of title for at least 50 years. The period in which to file an application for such a patent expired on November 3, 1986.

This amendment would allow a person who has a deed on file and has claimed the land and paid all taxes for a continuous period of 50 years to receive a patent from the state granting clear ownership of the property.

No significant fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution is \$60,000.

Source: General Land Office
LBB Staff: JO, JWH, DF, KNW, CKM



S.J.R. No. 11

1 SENATE JOINT RESOLUTION

2 proposing a constitutional amendment authorizing the commissioner
3 of the General Land Office to issue patents for certain public free
4 school fund land held in good faith under color of title for at
5 least 50 years.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Article VII of the Texas Constitution is amended
8 by adding Section 4A to read as follows:

9 Sec. 4A. (a) On application to the School Land Board, a
10 natural person is entitled to receive a patent to land from the
11 commissioner of the General Land Office if:

12 (1) the land is surveyed public free school fund land,
13 either surveyed or platted according to records of the General Land
14 Office;

15 (2) the land was not patentable under the law in
16 effect immediately before adoption of this section;

17 (3) the person acquired the land without knowledge of
18 the title defect out of the State of Texas or Republic of Texas and
19 held the land under color of title, the chain of which dates from
20 at least as early as January 1, 1941; and

21 (4) the person, in conjunction with his predecessors
22 in interest:

23 (A) has a recorded deed on file in the
24 respective county courthouse and has claimed the land for a
25 continuous period of at least 50 years as of January 1, 1991; and

(B) for at least 50 years has paid taxes on the land together with all interest and penalties associated with any period of delinquency of the taxes; provided, however, that in the event that public records concerning the tax payments on the land are unavailable for any period within the past 50 years, the tax assessors-collectors of the taxing jurisdictions in which the land is located shall provide the School Land Board with a sworn certificate stating that, to the best of their knowledge, all taxes have been paid for the past 50 years and there are no outstanding taxes nor interest or penalties currently due against the property.

(b) The applicant for the patent must submit to the School Land Board certified copies of his chain of title and a survey of the land for which a patent is sought, if requested to do so by the board. The board shall determine the qualifications of the applicant to receive a patent under this section. On a finding by the board that the applicant meets the requirements of Subsection (a) of this section, the commissioner of the General Land Office shall award the applicant a patent. If the applicant is denied a patent, he may file suit against the board in a district court of the county in which the land is situated within 60 days from the date of the denial of the patent under this section. The trial shall be de novo and not subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and the burden of proof is on the applicant.

(c) This section does not apply to beach land, submerged or

1 filled land, or islands and may not be used by an applicant to
 2 resolve a boundary dispute. This section does not apply to land
 3 that, pursuant to an action filed previous to the date of an
 4 application for patent thereon, was found by a court of competent
 5 jurisdiction to be state owned or to land on which the state has
 6 given a mineral lease that is in effect on the date of an
 7 application for patent thereon. A patent under this section for
 8 land within five miles of mineral production shall reserve minerals
 9 to the state in the same manner provided by law for reservations of
 10 minerals in sales to good faith claimants of unsurveyed school land
 11 within five miles of production.

12 (d) Application for a patent under this section must be
 13 filed with the School Land Board before January 1, 1993.

14 (e) This section is self-executing.

15 SECTION 2. This proposed constitutional amendment shall be
 16 submitted to the voters at an election to be held on November 5,
 17 1991. The ballot shall be printed to provide for voting for or
 18 against the proposition: "The constitutional amendment authorizing
 19 the commissioner of the General Land Office to issue patents for
 20 certain public free school fund land held in good faith under color
 21 of title for at least 50 years."

Chell
Bee

S.J.R. No. 11

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 11 was adopted by the Senate on March 21, 1991, by the following vote: Yeas 27, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 11 was adopted by the House on May 22, 1991, by the following vote: Yeas 132, Nays 1, one present not voting.

Chief Clerk of the House

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

March 15, 1991

TO: Honorable Bob Glasgow, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

IN RE: Committee Substitute for
Senate Joint Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years) this office has determined the following:

The resolution would revise the period in which a certain type of land patent could be applied for. Article VII, Section 4A of the Texas Constitution would authorize a person to apply for a patent to land on which the applicant can show an unbroken chain of title for at least 50 years. The period in which to file an application for such a patent expired on November 3, 1986.

This amendment would allow a person who has a deed on file and has claimed the land and paid all taxes for a continuous period of 50 years to receive a patent from the state granting clear ownership of the property.

No significant fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution is \$60,000.

Source: General Land Office
LBB Staff: JO, JWH, DF, KNW, PA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 6, 1991

**TO: Honorable Bob Glasgow, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas**

**IN RE: Senate Joint Resolution No. 11
By: Sims**

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years) this office has determined the following:

The resolution would revise the period in which a certain type of land patent could be applied for. Article VII, Section 4A of the Texas Constitution would authorize a person to apply for a patent to land on which the applicant can show an unbroken chain of title for at least 50 years. The period in which to file an application for such a patent expired on November 3, 1986.

This amendment would allow a person who has a deed on file and has claimed the land and paid all taxes for a continuous period of 50 years to receive a patent from the state granting clear ownership of the property.

No significant fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution is \$60,000.

Source: General Land Office

LBB Staff: JO, JWH, DF, KNW, CKM

free

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 11 was adopted by the Senate on March 21, 1991, by the following vote: Yeas 27, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 11 was adopted by the House on May 22, 1991, by the following vote: Yeas 132, Nays 11. *↑ one present not voting*

Chief Clerk of the House

S.J.R. No. 11

By Time

SENATE JOINT RESOLUTION

Proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years.

1-28-91 Filed with the Secretary of the Senate
JAN 29 1991 Read and referred to Committee on STATE AFFAIRS
Reported favorably _____
MAR 14 1991 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed
Laid before the Senate
MAR 21 1991 Senate and Constitutional Rules to permit consideration suspended by: unanimous consent
_____ yeas, _____ nays
MAR 21 1991 Read second time, _____, and ordered engrossed by: unanimous consent a viva voce vote
_____ yeas, _____ nays
Caption ordered amended to conform to the body of the bill.
MAR 21 1991 Senate and Constitutional 3 Day Rule suspended by a vote of 27 yeas, 0 nays.
MAR 21 1991 Read third time, _____, and passed by: 27 yeas, 0 nays

Betty King
SECRETARY OF THE SENATE

OTHER ACTION:

Mar. 21, 1991 Engrossed
Mar. 25, 1991 Sent to House

Engrossing Clerk Patsy Spaw

MAR 25 1991 Received from the Senate
MAR 27 1991 Read first time and referred to Committee on Environmental Affairs
MAY 5 1991 Reported favorably amended, sent to Printer 5:00p MAY 10 1991
MAY 11 1991 Printed and Distributed 2:48 am
5-14-91 Sent to Committee on Calendars 10:54 Am
MAY 22 1991 Read Second time (amended) and finally adopted
~~failed adoption~~ by Record Vote of 132 yeas, 1 nays 1 present not voting.
Read third time (amended) and finally adopted
~~failed adoption~~ by Record Vote of _____ yeas, _____ nays _____ present not voting.
Caption ordered amended to conform to body of bill.
MAY 22 1991 Returned to Senate.

Betty Murray
CHIEF CLERK OF THE HOUSE

MAY 22 1991

Returned from House without amendment.
Returned from House with _____ amendments.
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman; _____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

91 MAY 11 AM 2:48

HOUSE OF REPRESENTATIVES

AS